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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,157	03/13/2006	Gilad Almogy	6317P003	7462

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EXAMINER

SAKELARIS, SALLY A

ART UNIT	PAPER NUMBER
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1797

MAIL DATE	DELIVERY MODE
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05/13/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-25, drawn to a method for defect localization using electro-optically active material classified in for example, Class 436 subclass 164.

Group II, claim(s) 26-36, drawn to a system with a means to illuminating, detecting, and processing structure as classified in for example, Class 250 subclass 552.

Group III, claims(s) 37-44, drawn to a test structure with at least one conductor and an electro-optically active layer to provide an optical indication about the electrical state classified in Class 359 subclass 248.

1. The inventions listed as Groups I-III lack unity of invention because even though the inventions of these groups require the technical feature of using an electrical signal to at least one conductor of a test structure comprising electro-optically active material to indicate electrical status, this technical feature is not a special technical feature as it does not make a contribution over the prior art in view of Charles et al. US Patent 6271671.

Charles et al. teaches a method to improve multi-chip module (MCM) testability by using a new technique to detect on-substrate electric field strength. The invention employs a non-invasive, laser-based instrument to probe the MCM structures fabricated with poled polyimide interlayer dielectrics and thin film metallizations on silicon carriers. Circuit element characteristics of MCMs are probed with laser to detect electric field strength. The electrical, mechanical and optical properties of the electro-optical dielectric layers are determined to investigate the effect of the poling and processing operations on the efficacy of the polyimide as both a dielectric layer and an electro-optic material suitable for laser probing.

The shared technical feature of Groups I-III above is therefore not a special technical feature as it does not make a contribution over the prior art.

The inventions are distinct, each from the other because of the following reasons:

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2. Inventions I and II and I and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the method of group 1 could be practiced with another system and test structure such as those that are taught in the aforementioned US Patent 6271671, the Multiple Chip Module (MCM).

3. Inventions II and III are directed to related products. The related inventions are distinct if: (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed are distinct because invention I is drawn to a system with a detector and invention II is drawn to a structure with electro-optically active layers. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants and thus the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; the inventions do not overlap in scope, i.e., are mutually exclusive; and the inventions as claimed are not obvious variants.

4. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

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The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

6. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained.

Withdrawn process claims that are not commensurate in scope with an allowable product claim

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will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

7. Two telephone calls were made to Tarek Fahmi on 4/24/2009 and 4/27/2009 to request an oral election to the above restriction requirement, but did not result in an election being made.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sally A. Sakelaris whose telephone number is 5712726297. The examiner can normally be reached on Monday-Friday 8-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 5712721267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sally Sakelaris

/Jill Warden/
Supervisory Patent Examiner, Art Unit 1797